

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4 Plaintiff,  
5 vs. NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7 Defendants.  
8

9 Transcript of excerpt of testimony of  
10 PAUL RIVERA  
11 May 3, 2018  
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1	I N D E X	
2	EXAMINATION OF PAUL RIVERA	
3	By Mr. Castellano	3
4	By Mr. Lahann	37
5	By Mr. Sindel	39
6	By Mr. Roberts	71
7	By Mr. Blackburn	74
8	By Mr. Castellano	92
9	By Mr. Sindel	99
10	By Mr. Castellano	101
11	REPORTER'S CERTIFICATE	103
12	EXHIBITS ADMITTED	
13	Government 577 Admitted	5
14	Government 580 and 581 Admitted	28
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 THE COURT: All right. Mr. Castellano,  
2 does the Government have its next witness or  
3 evidence?

4 MR. CASTELLANO: Yes, Your Honor, the  
5 United States calls Paul Rivera.

6 THE COURT: Mr. Rivera, if you'll come up  
7 and stand next to the witness box, before you're  
8 seated, if you'll raise your right hand, my  
9 courtroom deputy, Ms. Bevel, will swear you in.

10 PAUL RIVERA,  
11 after having been first duly sworn under oath,  
12 was questioned, and testified as follows:

13 THE CLERK: Please be seated. Please  
14 state your name and spell your last name for the  
15 record.

16 THE WITNESS: Paul Rivera.

17 THE COURT: Mr. Rivera. Mr. Castellano.

18 MR. CASTELLANO: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. CASTELLANO:

21 Q. Good morning, Mr. Rivera.

22 A. Good morning.

23 Q. Please tell the members of the jury  
24 whether you are or ever have been a member of the  
25 SNM Gang?

1 A. Can you repeat that one more time?

2 Q. Yes. Are you now or have you ever been a  
3 member of the SNM Gang?

4 A. I have been.

5 Q. And how did you become a member of the  
6 gang?

7 A. I became a member by hanging around  
8 members that made it sound like it was something  
9 good.

10 Q. And as a result of them making it sound  
11 like something good, did they convince you to join  
12 the gang?

13 A. Yes.

14 Q. And did someone have to raise their hand  
15 for you to join the gang?

16 A. There was like five people had to vote.

17 Q. What do you remember about who those  
18 people were?

19 A. Rupert Zamora, Robert Martinez, Gerald  
20 Archuleta, and Vincent Lucero.

21 Q. And about when did that happen?

22 A. 1990.

23 Q. Was that inside prison or outside of  
24 prison?

25 A. Inside.

1 Q. I want to talk to you a little bit about  
2 your criminal history.

3 MR. CASTELLANO: At this time, Your Honor,  
4 I move for the admission of Government's Exhibit  
5 577.

6 THE COURT: Any objection from the  
7 defendants to Government's Exhibit 577?

8 MR. SINDEL: No, Your Honor.

9 THE COURT: Not seeing or hearing any  
10 objection, Government's Exhibit 577 will be admitted  
11 into evidence.

12 (Government Exhibit 577 admitted.)

13 MR. CASTELLANO: May I publish to the  
14 jury, Your Honor?

15 THE COURT: You may.

16 BY MR. CASTELLANO:

17 Q. Mr. Rivera, I'm going to show you the  
18 fourth page of that exhibit, which is 9103 at the  
19 bottom of the page. And do you see here under your  
20 name, "filed in 1990"? Do you see that, sir?

21 A. Yes, sir.

22 Q. Do you see the crimes of residential  
23 burglary and resisting and evading and obstructing  
24 an officer?

25 A. Yes.

1 Q. As part of that plea agreement, do you see  
2 that in Count 2, residential burglary, it was  
3 dismissed by the State as part of your deal?

4 A. Yes.

5 Q. Turning to the next, which is on page 9106  
6 at the bottom, do you see that you were sentenced in  
7 1992 for the crime of residential burglary?

8 A. Yes.

9 Q. On page 9108 -- Mr. Rivera, when I say  
10 that, when I refer to the page, I'm referring to  
11 this at the bottom. Do you see that?

12 A. Yes, sir.

13 Q. And do you see in that case, that was  
14 filed in 1994, you had a conviction for possession  
15 of heroin?

16 A. Yes.

17 Q. Turning to the next document on page 9111,  
18 do you see a judgment, partially suspended sentence,  
19 and commitment?

20 A. Yes.

21 Q. And when it says "commitment," were you  
22 committed to the Corrections Department?

23 A. Yes.

24 Q. And do you see your charges here for  
25 burglary and forgery?

1 A. Yes.

2 Q. And the next part talks about habitual  
3 offender. Do you recall whether your sentence was  
4 enhanced because of the prior convictions that you  
5 had?

6 A. It was enhanced, yes.

7 Q. Next is page 9113. Do you see you were  
8 sentenced in 1997 for conspiracy?

9 A. Yes.

10 Q. And turning to the next page, I'll ask you  
11 on the next page if you see convictions for  
12 possession of drug paraphernalia and criminal  
13 solicitation.

14 A. Yes.

15 Q. And then what's your understanding of a  
16 supplemental criminal information? Is that where  
17 they file and you have prior convictions and they  
18 use it to enhance your sentence?

19 A. I'm not sure.

20 Q. Do you see on paragraph 4 where it says  
21 supplemental criminal information?

22 A. Yes.

23 Q. You admitted to being the person who was  
24 convicted of these other crimes?

25 A. Yes.

1 Q. Do any of those crimes carry a minimum  
2 term, or are they all maximum terms up to a certain  
3 amount?

4 A. Up to a certain amount.

5 Q. And on page 9116, do you see your  
6 conviction for possession of a controlled substance  
7 which was, once again, heroin?

8 A. Yes.

9 Q. In 2010?

10 A. Yes.

11 Q. And then on the next page is there also an  
12 indication of possession of a controlled substance,  
13 which was oxycodone?

14 A. Yes.

15 Q. And burglary?

16 A. Yes.

17 Q. Was the oxycodone in a pill form or how  
18 was it?

19 A. Pill form.

20 Q. Now, during those times, were you a drug  
21 user or were you addicted to drugs?

22 A. I was a drug user and addicted.

23 Q. So these look like property crimes. Were  
24 you committing crimes in those days to support your  
25 habit?



1 A. Yes.

2 Q. And do you still consider yourself a  
3 person who is addicted to drugs?

4 A. Yes.

5 Q. Even while this case has been pending, can  
6 you tell the members of the jury whether you've used  
7 drugs?

8 A. I have used drugs.

9 Q. What drugs have you used?

10 A. Suboxone and meth.

11 Q. Where did you obtain those drugs? In a  
12 jail facility?

13 A. In a jail facility.

14 Q. Approximately how many times have you used  
15 Suboxone even while pending in this case?

16 A. Like about over a year.

17 Q. And how many times did you use Suboxone?

18 A. Maybe like over 30 times.

19 Q. And while you've been in custody?

20 A. Yeah.

21 Q. And how many times have you used  
22 methamphetamine while in custody?

23 A. Three times.

24 Q. So were there times when you were on the  
25 streets and not in prison?

1 A. Yes.

2 Q. I want to ask you if at some point you  
3 were on the streets and responsible for taking over  
4 a certain territory of New Mexico.

5 A. Yes.

6 Q. Where were you supposed to be responsible?

7 A. In Espanola, New Mexico.

8 Q. And why was that?

9 A. To organize everybody that was out there  
10 into one group.

11 Q. And what else were you supposed to be  
12 doing on the streets?

13 A. Making money and send it in; sending in  
14 drugs and money into the facility.

15 Q. Who were you supposed to send the drugs  
16 and money to?

17 A. To Robert Martinez and Arturo Garcia.

18 Q. Why them?

19 A. At that time, they were the ones that were  
20 the leaders.

21 Q. And were you able to do what you were  
22 asked?

23 A. No.

24 Q. Why not?

25 A. Because everybody was strung out and on

1 their own little mission and wouldn't...

2 Q. What happened to you as a result of you  
3 not being able to send money and drugs to Robert  
4 Martinez and Arturo Garcia?

5 A. There was a green light put on me.

6 Q. How did you know there was a green light  
7 put on you?

8 A. I was told by people that were coming out  
9 of the facilities. They were living in northern New  
10 Mexico.

11 MR. BLACKBURN: Objection, Your Honor,  
12 hearsay.

13 THE COURT: Well, you might establish who  
14 is saying these things so I can make that  
15 determination.

16 MR. CASTELLANO: I'll ask a different  
17 question, Your Honor.

18 BY MR. CASTELLANO:

19 Q. It was your understanding that you had a  
20 green light. Did something actually happen to you  
21 as a result of the green light?

22 A. Yes.

23 Q. What happened to you?

24 A. I got assaulted at a gas station.

25 Q. How were you assaulted?

1 A. With pipes, bars.

2 Q. Where were you hit?

3 A. In the head. In the head, the body; but  
4 mostly in the head.

5 Q. As part of being in the SNM Gang, have you  
6 ever been stabbed?

7 A. Yes.

8 Q. How many times were you stabbed?

9 A. I got stabbed 33 times.

10 Q. Who was that person who stabbed you?

11 A. There was four of them.

12 Q. Were they a member of your gang or a  
13 different gang?

14 A. They were a member of another gang.

15 Q. What gang was that?

16 A. Los Carnales.

17 Q. What was the relationship between SNM and  
18 Los Carnales?

19 A. At that time, there was no relationship;  
20 it was a war.

21 Q. Between those two gangs?

22 A. Yes.

23 Q. And did anybody retaliate against the Los  
24 Carnales for the assault on you?

25 A. Yes.

1 Q. What happened?

2 A. They went after one of their leaders,  
3 Leroy Mascarenas.

4 Q. Who went after him?

5 A. That was Arturo Garcia.

6 Q. What happened to Leroy Mascarenas?

7 A. He got stabbed pretty good.

8 Q. I want to take you to the 2015 time  
9 period. Do you recall if you were in prison or on  
10 the streets during that time?

11 A. I was on the streets.

12 Q. And were you go undergoing any drug  
13 treatment at that time?

14 A. I was going to Agave Substance Abuse in  
15 Los Lunas.

16 Q. For what purpose?

17 A. I was going for AA, NA, and for  
18 psychological treatment.

19 Q. Were you placed on any substance to try  
20 and kick your heroin habit?

21 A. The methadone.

22 Q. Did you meet anybody while you were doing  
23 the drug treatment program?

24 A. I met Brandy Rodriguez.

25 Q. And where was this drug treatment program?

1 In what city?

2 A. It was in Los Lunas.

3 Q. And what kind of treatment was this? Were  
4 you inpatient or were you outpatient, making visits?

5 A. It was an outpatient.

6 Q. How often were you going to treatment?

7 A. I was going three times a week.

8 Q. You said you met Brandy Rodriguez there?

9 A. Yes.

10 Q. How was your relationship with  
11 Ms. Rodriguez?

12 A. We got pretty close over the time.

13 Q. And when you say "close," were you friends  
14 or were you more than friends?

15 A. We were friends.

16 Q. And did you ever hang out with her and her  
17 family?

18 A. Yes.

19 Q. What types of things would you do if you  
20 hung out with her and her family?

21 A. Just stay around with the kids and take  
22 them where they needed to go in her vehicle.

23 Q. And in which part of the state was she  
24 living?

25 A. At that time she was living in Tome.

1 Q. For those people who don't know where that  
2 is, where is Tome?

3 A. It would be in Los Lunas.

4 Q. At that time were you both on methadone?

5 A. No, just me.

6 Q. Were you both trying to stay clean at that  
7 time?

8 A. Yes.

9 Q. And so at some point in time did you have  
10 discussions about the pending case against Joe  
11 Gallegos?

12 A. Yes.

13 Q. During the time that you were hanging out  
14 with her, did you find yourself at Joe Gallegos'  
15 trailer?

16 A. Yes.

17 Q. And was he there at that time?

18 A. No.

19 Q. Where was he?

20 A. He was locked up.

21 Q. And who all went over to the trailer?

22 A. It was me, Brandy, her two children.

23 Q. Did the children stay around at the  
24 trailer?

25 A. No, we got there. She told them to take

1 the vehicle and do what they needed to do, and they  
2 left.

3 Q. Who else was at the trailer eventually?

4 A. Shauna Gutierrez. And then afterwards  
5 Santos showed up, and his girlfriend, Alex.

6 Q. During that time period was anybody  
7 talking about someone referred to as Tiny?

8 A. Yes.

9 Q. What were the discussions about Tiny?

10 MR. SINDEL: Your Honor, I'm going to  
11 object as hearsay.

12 THE COURT: What are you trying to get out  
13 and what are you trying to prove?

14 MR. CASTELLANO: The co-conspirator  
15 statements, Your Honor, pursuant to the Court's  
16 ruling.

17 THE COURT: All right. If these are on  
18 the chart, then I've already ruled on them.

19 All right. Mr. Castellano.

20 MR. SINDEL: May that just be a continuing  
21 objection?

22 THE COURT: It may, Mr. Sindel.

23 MR. SINDEL: Thank you.

24 BY MR. CASTELLANO:

25 Q. What were the discussions about Tiny in



1 the trailer?

2 A. They found out -- Shauna found out where  
3 Tiny was, and they wanted to go -- for us to go make  
4 a statement to him so he don't testify against Joe.

5 Q. And when these conversations first  
6 started, who was it mostly doing the talking?

7 A. Shauna.

8 Q. At some point, did Brandy agree that you  
9 guys should go find Tiny?

10 A. Yes.

11 Q. Did you know Tiny by any other names?

12 A. No.

13 Q. Was that the only name you knew?

14 A. That's the only name I knew.

15 Q. And did you agree to do something with  
16 those two or for those two at that time?

17 A. Yes.

18 Q. What did you agree to do?

19 A. To go assault Tiny.

20 Q. Why was that?

21 A. So he wouldn't testify.

22 Q. Against who?

23 A. Against Joe Gallegos.

24 Q. Now, at that time did you know Joe  
25 Gallegos to be an SNM Gang member?

1 A. Yes.

2 Q. And at that time what was your status with  
3 the gang?

4 A. At that time my status was no good.

5 Q. And did you share that information with  
6 anyone who was in that trailer?

7 A. No.

8 Q. What happened as a result of these  
9 conversations about Tiny?

10 A. It landed up to the assault of Tiny.

11 Q. Did you guys leave the trailer at some  
12 point?

13 A. Yes.

14 Q. At that point did you even really know  
15 Tiny?

16 A. No.

17 Q. Who left the trailer?

18 A. It was me, Brandy, Santos, and that was  
19 it.

20 Q. Where was Shauna whenever you guys left?

21 A. She stayed at the trailer.

22 Q. And in what vehicle did you travel in?

23 A. In Santos' truck.

24 Q. Do you remember what color that truck was?

25 A. I believe it was green.

1 Q. And if you remember about --

2 THE COURT: Mr. Rivera, if you'll kind of  
3 sit up closer to the microphone, I think we'll be  
4 able to hear you better. Thank you, Mr. Rivera.

5 Q. At that time about how long was the drive  
6 from Joe Gallegos' trailer to the place you ended  
7 up?

8 A. Not even five minutes.

9 Q. Was it pretty close?

10 A. Pretty close.

11 Q. Mr. Rivera, I'm going to show you  
12 Government's Exhibit 550. Do you recognize what's  
13 in that photograph, sir?

14 A. No.

15 Q. Okay. Let me turn to Exhibit 569. Do you  
16 recognize what's in that photo?

17 A. Yes.

18 Q. What's in that photo?

19 A. That's the trailer where the assault  
20 occurred.

21 Q. Did you know whose trailer that was?

22 A. Just by name.

23 Q. What was the name?

24 A. Charlene.

25 Q. And who took you to over to that trailer?

1 A. Brandy.

2 Q. Was she driving?

3 A. Yes.

4 Q. Let me show you Exhibit 552. Do you  
5 recognize that trailer?

6 A. Yes.

7 Q. Is that the same house?

8 A. Yes.

9 Q. If you can, tell the jury what happened  
10 once you arrived at that house.

11 A. When we got there, we went up the stairs.  
12 I knocked on the door a couple times. She answered  
13 and I asked where Tiny was, and I pushed the door  
14 open. I pushed her out of the way. And I went, and  
15 at that time he was standing at the bedroom door.

16 Q. Let me stop you there. When you went over  
17 there, did you have any weapons with you?

18 A. Yes.

19 Q. What did you have?

20 A. I had a wooden table leg from a table.

21 Q. Where did you get that?

22 A. At Joe's place.

23 Q. And did anyone else have any weapons?

24 A. Santos.

25 Q. What was he carrying?

1 A. A machete.

2 Q. And you said you just kind of pushed your  
3 way into the house?

4 A. Yes.

5 Q. And what was going through your mind at  
6 this time in terms of whether you were getting  
7 pumped up or getting adrenaline going for this  
8 assault?

9 MR. SINDEL: Object to the leading form of  
10 the question.

11 THE COURT: Overruled. You can answer,  
12 sir.

13 A. To give him a message.

14 BY MR. CASTELLANO:

15 Q. And how were you feeling as you were  
16 entering the house?

17 A. Adrenaline, just wanting to prove a point.

18 Q. And were you under the influence of any  
19 substances at that point in time?

20 A. At that point, yes.

21 Q. What were you under?

22 A. At that point I was under heroin.

23 Q. I want to show you Exhibit 553. Do you  
24 recognize that room?

25 A. No.

1 Q. Let me show you Exhibit -- and how quickly  
2 did you move through the house to the point where  
3 you found Jose Gomez?

4 A. It just took a couple seconds; pretty  
5 fast.

6 Q. Let me show you Exhibit 561. Do you  
7 remember that room?

8 A. Yes.

9 Q. What happened in that room?

10 A. That's where Tiny was assaulted.

11 Q. Now, when you went over there with  
12 weapons, did you know or believe that those were  
13 weapons that could cause death?

14 A. Yes.

15 Q. And tell us, please, how Tiny was  
16 assaulted.

17 A. When I went into the bedroom I hit him in  
18 his face with my fist. And he went over the bed.  
19 And then I went around the side. He was on the  
20 floor. And I hit him a few times with the thing in  
21 the head.

22 Q. You said "the thing." What was --

23 A. The wooden leg from the table.

24 Q. And did anyone else hit him?

25 A. And after that, Santos hit him a couple of

1 times with the machete in the head. And then Brandy  
2 kicked him a few times.

3 Q. And as she kicked him, do you remember her  
4 saying anything to the person you knew as Tiny?

5 A. After she kicked him, she squatted and  
6 said, "You better not testify against my jefe or  
7 I'll kill you."

8 Q. Let me show you Exhibit 556. I'm circling  
9 something on the floor by a carpet.

10 A. Yes.

11 Q. Do you see what that is, sir?

12 A. Yes.

13 Q. What is that?

14 A. Blood.

15 Q. Did -- after Tiny was hit in the head, is  
16 it fair to say he was bleeding a fair amount?

17 A. Yes.

18 Q. And Exhibit 560. Do you think he was  
19 bleeding enough to stain the carpet with his blood?

20 A. Yes.

21 Q. Let me show you now Exhibit 563. Do those  
22 look like the injuries caused by Tiny being struck  
23 in the head?

24 A. Yes.

25 Q. Let me show you Exhibit 565. Do you

1 recognize that person?

2 A. Yes.

3 Q. Who is that person?

4 A. Tiny.

5 Q. And I think you mentioned -- did you  
6 strike him in the head or the face before you hit  
7 him in the head?

8 A. Yes.

9 Q. I'm going to circle something around his  
10 eye. What do you see there?

11 A. A swollen eye.

12 Q. Do you know if that was caused by you or  
13 anybody else in this assault?

14 A. That was caused when I hit him when I  
15 first went through the door.

16 Q. Even though you were in bad standing with  
17 the gang, did you understand by assaulting this  
18 person known as Tiny that you were helping an SNM  
19 Gang member?

20 A. Yes.

21 MR. SINDEL: I'll object, Your Honor, as  
22 being leading. Calls for a conclusion. There is no  
23 foundation.

24 THE COURT: Overruled.

25



1 BY MR. CASTELLANO:

2 Q. What was your answer, sir?

3 A. Yes.

4 Q. And who would you be helping by committing  
5 this assault?

6 A. Joe.

7 Q. Joe who?

8 A. Gallegos.

9 Q. And what eventually happened to Tiny? Did  
10 you leave him in the room? Did you stay with him?

11 A. I left him in the room.

12 Q. And when you left the room, was anyone  
13 else in the room with him?

14 A. Santos Gonzalez.

15 Q. What was Tiny's condition when you left  
16 the room?

17 A. When I left the room, he was still alive.

18 Q. And how do you think he was still alive?

19 A. He was talking to Santos.

20 Q. And why did you leave the room at that  
21 point?

22 A. To see where Brandy and Charlene were at.

23 Q. And did you eventually find them?

24 A. Yes. They were in the kitchen.

25 Q. What were they doing when you found them?

1           A.     They were talking. She was trying to calm  
2 down Charlene a little bit.

3           Q.     Brandy was?

4           A.     Yes.

5           Q.     What eventually happened to Tiny?

6           A.     He got away. I seen him running through  
7 the back of the trailer.

8           Q.     And when Brandy Rodriguez told him: "You  
9 better not testify against my jefe or I'll kill  
10 you," do you know who she was referring to when she  
11 used that term?

12           MR. SINDEL: I object, Your Honor. It  
13 calls for a conclusion on the part of this witness.

14           THE COURT: If he understands what the  
15 reference is to, I'll let him testify. He can give  
16 his understanding.

17 BY MR. CASTELLANO:

18           Q.     What was your understanding, sir?

19           A.     It was done for Joe Gallegos.

20           Q.     Why do you think that when she used the  
21 term "jefe," she was referring to Joe Gallegos?

22           A.     That's what she's called him several times  
23 before.

24           Q.     What did all of you do once Tiny ran from  
25 the house?

1 A. We took off in the truck.

2 Q. Where did you go?

3 A. We went to a little embankment by Walmart  
4 to throw my weapon away.

5 Q. Which Walmart was this?

6 A. They only have one Walmart.

7 Q. In which town?

8 A. I believe it's Belen.

9 Q. And tell us about this embankment and what  
10 happened there.

11 A. I gave Santos the wooden piece of the leg  
12 and he threw it in the river.

13 Q. And you mentioned the machete earlier.  
14 What happened to that weapon?

15 A. He kept it.

16 Q. Where did you go after the embankment?

17 A. We went back to Joe's place.

18 Q. What happened over there?

19 A. When we got there, Brandy told Shauna the  
20 incident happened and she said that Joe would be  
21 happy.

22 Q. Who said Joe would be happy?

23 A. Shauna.

24 Q. Just so I understand this, did Brandy  
25 Rodriguez explain to Shauna Gutierrez what happened?

1 A. Yes.

2 Q. And is that when Shauna said that Joe  
3 would be happy?

4 A. Yes.

5 Q. As a result of what happened out there  
6 that day, did you agree to plead guilty to your  
7 charges?

8 A. Yes.

9 Q. And did you agree to cooperate and come to  
10 court to tell the jury what happened?

11 A. Yes.

12 MR. CASTELLANO: Your Honor, at this time  
13 I move the admission of Government's Exhibits 580  
14 and 581.

15 MR. SINDEL: No objection.

16 THE COURT: All right. Not hearing any  
17 objection, Government's Exhibits 580 and 581 will be  
18 admitted in evidence.

19 (Government Exhibits 580 and 581  
20 admitted.)

21 BY MR. CASTELLANO:

22 Q. Mr. Rivera, I'm going to begin with  
23 Exhibit 580. Do you recognize this document as your  
24 plea agreement?

25 A. Yes.

1 Q. And do you recall whether you pled guilty  
2 on February 1st of 2017?

3 A. Yes.

4 Q. And before that time, had you met with the  
5 FBI and the prosecutors to submit to what's called a  
6 debrief or to talk about what happened?

7 A. Yes.

8 Q. Turning to the next page of that document,  
9 did you understand that you were pleading guilty to  
10 two counts, one being violent crimes in aid of  
11 racketeering for a conspiracy to murder the person  
12 known as Tiny to you, and to violent crimes in aid  
13 of racketeering for a number of charges in that  
14 count, including attempted murder, assault resulting  
15 in serious bodily injury, and assault with a  
16 dangerous weapon?

17 A. Yes.

18 Q. When you pled guilty, did you understand  
19 and were the penalties explained to you that for the  
20 first charge, it was a maximum term of imprisonment  
21 of 10 years?

22 A. Yes.

23 Q. And for the second charge that your  
24 maximum exposure was up to 20 years?

25 A. Yes.

1 Q. And were these the charges that you were  
2 originally charged with?

3 A. Yes.

4 Q. If you remember, at the time that you pled  
5 guilty, was there another count in the indictment  
6 for witness intimidation?

7 A. Yes.

8 Q. And do you recall whether these are the  
9 charges that you pled to from your case, Counts 14  
10 and 15?

11 A. Yes.

12 Q. On page 4 of that document there is a  
13 portion here in paragraph 8 which says, "Defendant's  
14 admission of facts." At that time in the plea  
15 agreement, did you have a statement of facts where  
16 you told the Court who took your plea how you were  
17 guilty for these crimes?

18 A. Yes.

19 Q. Let me turn your attention next to  
20 Government's Exhibit 581. Do you see that this is  
21 called an addendum to the plea agreement at the top  
22 of the document?

23 A. Yes.

24 Q. What is your understanding of what this  
25 document does or what it means?

1           A.     That if I'm cooperating, I need to tell  
2 the whole truth.

3           Q.     Do you understand that under your  
4 agreement, you're not supposed to falsely implicate  
5 anybody who is innocent of crimes?

6           A.     Yes.

7           Q.     Or minimize anyone else's involvement?

8           A.     Yes.

9           Q.     And as part of that agreement in paragraph  
10 3, do you understand that if you're called as a  
11 witness to state or federal cases, that you will  
12 agree to provide testimony?

13          A.     Yes.

14          Q.     Turning to the next page of that document,  
15 do you understand there is an agreement pursuant to  
16 two provisions, one called the 5K1.1, and the other  
17 18 United States Code section 3553(e)?

18          A.     Yes.

19          Q.     And what's your understanding of what  
20 those two provisions can do for you?

21          A.     A downward departure and minimize my  
22 sentence.

23          Q.     And so do you understand that if you  
24 provide truthful testimony in your case, that your  
25 sentence can be reduced?

1 A. Yes.

2 Q. Do you also understand that that could be  
3 reduced if the United States files a motion on your  
4 behalf laying out what your cooperation was?

5 A. Yes.

6 Q. Ultimately who has the final say about  
7 what your sentence will be?

8 A. Judge Browning.

9 Q. You see on the last page that's solely  
10 within the Court's discretion?

11 A. Yes.

12 Q. As a result of your cooperation, are you  
13 hoping that your sentence will be reduced?

14 A. Yes.

15 Q. I'm going to ask you about some of the  
16 people on trial here, and I want to ask you if you  
17 know Joe and Andrew Gallegos?

18 A. Yes.

19 Q. Do you know Joe Gallegos to be an SNM  
20 member?

21 A. Yes.

22 Q. Did you know him to be a member of any  
23 other gang?

24 A. East Side Locos.

25 Q. What about Andrew Gallegos or Smiley?



1 A. Same thing.

2 Q. What did you understand about Brandy's  
3 gang ties, or was she a member of any gang that you  
4 knew?

5 A. The East Side Locos.

6 Q. And do you know any of the Gallegoses'  
7 other brothers?

8 A. Yes.

9 Q. Who do you know?

10 A. Frankie Gallegos.

11 Q. Did you know him to be a member of any  
12 gangs?

13 A. Yes.

14 Q. Which ones?

15 A. SNM and East Side Locos.

16 Q. You mentioned Arturo Garcia earlier. What  
17 was his position?

18 A. Leader.

19 Q. And do you know Edward Troup?

20 A. Yes.

21 Q. And do you know whether or not he's an SNM  
22 Gang member?

23 A. He's an SNM Gang member.

24 Q. What about Billy Garcia?

25 A. Yes.

1 Q. What about Christopher Chavez?

2 A. Yes.

3 Q. And what about Allen Patterson?

4 A. Yes.

5 Q. Do you know Allen Patterson by any other  
6 names?

7 A. Trigger.

8 THE COURT: Mr. Castellano, would this be  
9 a good time for us to take our morning break?

10 MR. CASTELLANO: Yes, Your Honor.

11 THE COURT: Let's be in recess for about  
12 15 minutes. All rise.

13 (The jury left the courtroom.)

14 THE COURT: All right. We'll be in recess  
15 for about 15 minutes.

16 (The Court stood in recess.)

17 (The jury entered the courtroom.)

18 THE COURT: All right. Everyone be  
19 seated. All right, Mr. Rivera, I'll remind you that  
20 you're still under oath.

21 Mr. Castellano, if you wish to continue  
22 your direct examination of Mr. Rivera, you may do so  
23 at this time.

24 MR. CASTELLANO: Yes, sir. Thank you.

25 THE COURT: Mr. Castellano.

1 BY MR. CASTELLANO:

2 Q. Mr. Rivera, when you agreed to cooperate  
3 in this case, do you recall if the FBI signed you up  
4 as a confidential human source?

5 A. Yes.

6 Q. As a result of you providing information  
7 to the FBI, did you receive payments from the FBI?

8 A. Yes.

9 Q. And you recall if you received  
10 approximately \$1,650 in payments?

11 A. Yes.

12 Q. Now, when you were one of the defendants  
13 charged in this case, did you receive what was  
14 called a tablet?

15 A. Yes.

16 Q. And did the tablet have the discovery from  
17 this case?

18 A. Yes.

19 Q. At some point what happened to your  
20 tablet?

21 A. My tablet was got into, to get porn and  
22 music.

23 Q. All right. Did someone help you reset  
24 that tablet?

25 A. Yes.

1 Q. What happened once the tablet was reset?  
2 Did the information disappear?

3 A. It disappeared.

4 Q. About how long was that?

5 A. A little over a year ago.

6 Q. And since that time, have you had access  
7 to the information that was on that tablet?

8 A. No.

9 Q. Once it was reset, what did you do with  
10 it?

11 A. I put porno and music on it.

12 Q. Did you say you put porn and music?

13 A. Yes.

14 Q. And was that adult pornography you looked  
15 at on the tablet?

16 A. Yes.

17 Q. And how were you able to access the  
18 internet with the tablet?

19 A. Through Wi-Fi.

20 Q. Where did the Wi-Fi come from?

21 A. Walmart.

22 Q. So was there a Walmart near the jail  
23 facility where you were being housed?

24 A. Yes.

25 Q. Now, when you used drugs while in jail in

1 this case, and reset the tablet, did you have  
2 permission from anybody to do so?

3 A. No.

4 Q. Do you have any nicknames that you go by?

5 A. Oso.

6 MR. CASTELLANO: I pass the witness, Your  
7 Honor.

8 THE COURT: Thank you, Mr. Castellano.

9 Mr. Lahann, do you have cross-examination  
10 of Mr. Rivera?

11 MR. LAHANN: Thank you, Your Honor.

12 THE COURT: Mr. Lahann.

13 CROSS-EXAMINATION

14 BY MR. LAHANN:

15 Q. Mr. Rivera, you never did any time with  
16 Mr. Patterson, did you?

17 A. No.

18 Q. Never once. You didn't know him before  
19 you got to Estancia, did you?

20 A. In Estancia.

21 Q. And that was after you already had a green  
22 light on you from the SNM; isn't that right?

23 A. Yes.

24 Q. And you're saying that the SNM is sharing  
25 all their secrets with you in Estancia?

1 A. Yes.

2 Q. You gave a statement to FBI agents on May  
3 8, 2016. Do you remember that?

4 A. Yes.

5 Q. You never once mentioned Allen Patterson,  
6 did you?

7 A. No.

8 Q. You gave a statement to Special Agent  
9 Neale on October 20, 2016. Do you remember that?

10 A. Yes.

11 Q. You never once mentioned Allen Patterson,  
12 did you?

13 A. No.

14 Q. You gave a statement to Agent Stemo on  
15 December 2, 2016. Do you remember that?

16 A. Yes.

17 Q. You never once mentioned Allen Patterson,  
18 did you?

19 A. No.

20 Q. You entered a plea agreement on February  
21 1st, 2017. Do you remember signing that?

22 A. Yes.

23 Q. You never once mentioned Mr. Patterson in  
24 that agreement, did you?

25 A. No.

1 Q. You gave a statement to Mr. Castellano  
2 before the trial started, on March 28, 2018. You  
3 never mentioned Allen Patterson, did you?

4 A. No.

5 Q. On April 28, weeks after this trial  
6 started, that was the first time you mentioned Allen  
7 Patterson, isn't it?

8 A. Yes.

9 Q. And it's because Mr. Castellano told you  
10 how bad the case was going against Mr. Patterson,  
11 wasn't it?

12 A. Yes.

13 MR. LAHANN: Thank you.

14 THE COURT: Thank you, Mr. Lahann.

15 Anyone else have cross-examination of  
16 Mr. Rivera? Mr. Sindel?

17 CROSS-EXAMINATION

18 BY MR. SINDEL:

19 Q. Porn and music. That helped pass the  
20 time, didn't it?

21 A. Yes.

22 Q. So you're pretty good with computers and  
23 stuff, that you were able to figure out how to  
24 access the internet with the tablet; right?

25 A. Yes.

1 Q. And you were pretty smart and pretty  
2 conniving to figure out how to download porn; right?

3 A. Yes.

4 Q. And in terms of what porn you watched,  
5 that's -- we have to rely on your word, don't we?

6 A. Yes.

7 Q. Now, there was a mention, I think, of you  
8 being part of East Side Locos; is that right?

9 A. No.

10 Q. But you said that Brandy was an East Side  
11 Loco?

12 A. Yes.

13 Q. And Mr. Gallegos was an East Side Loco;  
14 correct?

15 A. Yes.

16 Q. Do you know the Burquenos, the prison  
17 gang?

18 A. Yes.

19 Q. Is that a prison gang?

20 A. Yes.

21 Q. That also exists on the outside?

22 A. Yes.

23 Q. So the Burquenos operate both on the  
24 streets and in prison; right?

25 A. Yes.



1 Q. Would you call them a dangerous prison  
2 gang?

3 A. No.

4 Q. Would you just say they're just like a  
5 boys' club?

6 A. No.

7 Q. So they actually -- they commit crimes,  
8 don't they?

9 A. Yes.

10 Q. And they come back into the prison system  
11 and they maintain their gang relationships; right?

12 A. Yes.

13 Q. It's part of what they do within the  
14 prison system; right?

15 A. Yes.

16 Q. The other thing is that there was a  
17 mention by Mr. Castellano concerning a 5K and a  
18 3553. Do you remember that?

19 A. Yes.

20 Q. And do you understand that a 5K motion is  
21 a motion that is filed at or near the time you enter  
22 the plea of guilty and prior to any sentence that  
23 the Court imposes?

24 A. Yes.

25 Q. So that that motion says, you know, this

1     guy performed well for the Government and we think  
2     he should get some benefit; correct?

3             A.     Yes.

4             Q.     And you know what a PSR is --

5             A.     Yes.

6             Q.     -- or a presentence report. Have you read  
7     yours?

8             A.     Yes.

9             Q.     It would be pretty stupid of you not to  
10    read it and understand it and know about it,  
11    wouldn't it?

12            A.     Yes.

13            Q.     I mean, it's vital to what is going to  
14    happen in your future; right?

15            A.     Yes.

16            Q.     Whether you're going to go to prison for  
17    20 years or 25 years or 30 years, or get probation,  
18    all of that stuff will be contained within the  
19    presentence report?

20            A.     Yes.

21            Q.     So when you read the presentence report,  
22    do you know what I mean when I talk about the  
23    sentencing guidelines?

24            A.     Yes.

25            Q.     You know, you're a smart guy. You figured

1 out how to trick these tablets. You understand how  
2 the sentencing guidelines work; right?

3 A. Yes.

4 Q. And there's a table that's used in the  
5 sentencing guidelines; correct?

6 A. Yes.

7 Q. And on the left side of that table, as it  
8 goes from top to bottom, it talks about the offense  
9 characteristics.

10 A. Yes.

11 Q. That's the offense. Across the top is the  
12 criminal history.

13 A. Yes.

14 Q. Then you take the criminal history and the  
15 offense characteristics, and then you come down and  
16 you look on the table and it will tell you  
17 approximately how many months the Sentencing  
18 Commission believes is appropriate under the  
19 sentencing guidelines.

20 A. Yes.

21 Q. And in your situation, your criminal  
22 history category is 6; right?

23 A. Yes.

24 Q. That's the highest criminal history  
25 category there is under the guideline system;

1 correct?

2 A. Yes.

3 Q. And your criminal history is as bad as it  
4 can get under that system; right?

5 A. Yes.

6 Q. And if you go down the left side for your  
7 offense conduct, are you aware that the sentencing  
8 guidelines, without the 5K and the 3553, could  
9 result in a sentence of 30 years or more?

10 A. Yes.

11 Q. And you certainly don't want to do 30  
12 years in prison, do you?

13 A. No.

14 Q. So that's why you're here, to try to avoid  
15 that complication; correct?

16 A. Yes.

17 Q. And then you also know if you perform  
18 appropriately and the Government files their 5K  
19 motion and the judge sentences you, you have the  
20 opportunity through the Government to go back a  
21 second time; right?

22 A. Yes.

23 Q. Under 3553. And you can say, "Look, you  
24 know, I got a reduction from the 30 years I was  
25 looking at, but I think I want more." And you could

1 ask the Government to give you more under that  
2 provision.

3 MR. CASTELLANO: I'll object, Your Honor.  
4 That misstates the law.

5 THE COURT: Overruled.

6 BY MR. SINDEL:

7 Q. Correct. That's what you understand,  
8 right? Don't look over there. Look either here or  
9 at the jury. They won't give you any guidance over  
10 there. Okay?

11 All right. That's what you understand the  
12 law to be; correct?

13 A. No.

14 Q. What do you understand it to be? What do  
15 you understand it to be?

16 A. Repeat it again.

17 Q. No. You tell me.

18 A. I don't understand it.

19 Q. You don't understand it. So when you put  
20 your name to that plea agreement, did you understand  
21 it?

22 A. Yes.

23 Q. When you put your name and signed your  
24 name on that addendum, did you understand it?

25 A. Yes.

1 Q. Okay. So what does it mean?

2 A. If I cooperate, I get a downward  
3 departure.

4 Q. All right. And what does it mean when it  
5 talks about a departure under 18 USC 3553(a)?

6 A. Cooperation.

7 Q. Is that the same as the 5K, or is it more,  
8 a little more icing on that cake?

9 A. More.

10 Q. Okay.

11 MR. CASTELLANO: Your Honor, I need to  
12 make a correction. It's not 3553(a). It's 3553(e).  
13 A different provision of the statute.

14 THE COURT: I'll let you deal with that on  
15 redirect.

16 BY MR. SINDEL:

17 Q. 3553(a), (b), (c), (d), (e), whatever, you  
18 understand that's a second bite at the apple?

19 A. Yes.

20 Q. At any time when you were in prison and  
21 you -- I think you said you entered the SNM in 1990;  
22 is that right? In the '90s?

23 A. Yes.

24 Q. Did Gallegos, Mr. Gallegos, Joe Gallegos  
25 sponsor you in the SNM?

1 A. No.

2 Q. Did he train you in the code of conduct of  
3 the SNM?

4 A. No.

5 Q. Did he give you any sort of guidance as to  
6 how you were to conduct yourself in the SNM?

7 A. No.

8 Q. Now, we've heard the phrase tabla. Do you  
9 understand that that means -- those are the people  
10 that were sort of in charge and made many of the  
11 decisions that the other members were supposed to  
12 follow?

13 A. Yes.

14 Q. And there was also an indication of  
15 shot-callers; right?

16 A. Yes.

17 Q. And to your knowledge, was Mr. Joe  
18 Gallegos a member of the tabla?

19 A. No.

20 Q. Was Mr. Joe Gallegos the jefe of SNM?

21 A. No.

22 Q. Was Mr. Joe Gallegos a shot-caller?

23 A. No.

24 Q. And you also understood that it was up to  
25 those people within the SNM to make a determination

1 of what the members were to do?

2 A. Yes.

3 Q. And especially concerning whether someone  
4 was green lighted? You know what that phrase means;  
5 right?

6 A. Yes.

7 Q. And whether there was supposed to be a hit  
8 on somebody?

9 A. Yes.

10 Q. And that was the procedure; that was the  
11 process; correct?

12 A. Yes.

13 Q. And if you went outside that procedure or  
14 process, that was a violation of the code of the  
15 SNM?

16 A. Yes.

17 Q. So if you were an SNM member, the jefe  
18 number 1, the tabla number 2, shot callers number 3  
19 in the hierarchy, do you know what I mean by  
20 hierarchy?

21 A. Yes.

22 Q. That was how it went, from top to midlevel  
23 and then the soldiers and torpedoes?

24 A. Yes.

25 Q. Now, you had referenced I think in 1996



1 there was a conviction for forgery; right?

2 A. Yes.

3 Q. You went into a bank and tried to pass  
4 checks off as legitimate and they were not; correct?

5 MR. CASTELLANO: Objection, Your Honor.  
6 Pursuant to Rule 609 he's admitted to the  
7 conviction.

8 THE COURT: I'll give you a little  
9 latitude to give a brief description of it, but not  
10 the details of it.

11 MR. SINDEL: Okay.

12 THE COURT: So if you want to get what the  
13 conviction is, you can.

14 MR. SINDEL: I will do that, Your Honor.

15 THE COURT: But no details.

16 BY MR. SINDEL:

17 Q. The forgery, you went into a bank with  
18 fake checks or something to that effect; right?

19 A. Yes.

20 Q. And when you do a forgery, you have to  
21 look somebody in the eye and try and convince them  
22 you're telling the truth; right?

23 A. Yes.

24 Q. And you know it's not like a residential  
25 burglary where you sneak into some poor guy's or

1 some poor family's home and take all their stuff;  
2 right?

3 A. Yes.

4 Q. This is an eyeball-to-eyeball crime, isn't  
5 it?

6 A. Yes.

7 Q. And you have to be convincing, don't you?

8 A. Yes.

9 Q. And you were caught leaving the bank after  
10 you had done the crime; correct?

11 MR. CASTELLANO: I'll object now pursuant  
12 to 609.

13 THE COURT: Sustained.

14 BY MR. SINDEL:

15 Q. You also had a crime for criminal  
16 solicitation. And you have to excuse me. I'm not  
17 from New Mexico. I didn't -- I don't know what that  
18 is. Could you tell me what criminal solicitation  
19 is?

20 A. Hanging around the place I was at.

21 Q. So if you hang around an Allsup's, you  
22 could be charged with a crime?

23 A. Yeah.

24 Q. Okay. And if you hung around a school,  
25 you could be charged with a crime?

1 A. Yes.

2 Q. So then you had to be awful careful about  
3 where you congregate; right? Because you could end  
4 up charged with a crime and going to prison for  
5 hanging around a Dairy Queen. Yes?

6 A. Yes.

7 Q. You have to say out loud.

8 A. Yes.

9 Q. Now, you also, in response to  
10 Mr. Castellano's pointed examination, said that  
11 while you were in prison, you used Suboxone and  
12 methamphetamine; right?

13 A. Yes.

14 Q. Now, we've heard a lot of testimony about  
15 Suboxone, and that if I understand it right --  
16 thankfully, I don't need to personally -- that it is  
17 used within the medical community to help people  
18 overcome addiction.

19 A. Yes.

20 Q. Okay. But that's not why you were using  
21 it, is it?

22 A. No.

23 Q. So if you take Suboxone and you're not  
24 trying to overcome a heroin addiction, it can give a  
25 tremendous feeling of being high?

1 A. Yes.

2 Q. That's why you take Suboxone in prison:

3 Not to get better, but to get higher; correct?

4 A. Yes.

5 Q. To forget for a moment who you are and who  
6 you're surrounded by; right?

7 A. Yes.

8 Q. And then when you take methamphetamine,  
9 you inject it, don't you?

10 A. Yes.

11 Q. When you take heroin, you slide that stuff  
12 in your arm or leg or ankle or hand; right?

13 A. Yes.

14 Q. By a needle. Did you inject the  
15 methamphetamine while you were in prison?

16 A. Yes.

17 Q. Waiting to come in here and cooperate with  
18 the Government?

19 A. Yes.

20 Q. With a syringe?

21 A. No.

22 Q. But did you inject it in your body? I  
23 thought you said you injected it.

24 A. I did.

25 Q. I would ask you how, but I don't think I

1 want to know.

2 Now, when you were at the trailer with  
3 Shauna and Brandy and Santos, did the SNM come up at  
4 any time in your preparation to go to Tiny's house?

5 A. Yes.

6 Q. Before you even left; right?

7 A. Yes.

8 Q. That's what your testimony is; right?

9 A. Yes.

10 Q. So that even before you climbed into that  
11 green or blue or gray truck, you knew that this was  
12 all about the SNM; right?

13 A. Yes.

14 Q. And you know you have to say that in this  
15 case, don't you?

16 A. No.

17 Q. Because they've asked that, haven't they?  
18 You know you have to tie this in to the SNM; right?

19 A. No.

20 Q. Well, isn't that what you're trying to do  
21 here?

22 A. No.

23 Q. No. All right. Well, let's see. Was  
24 there an interview that you did on October 20, 2016,  
25 with the FBI and with Mr. Castellano and with

1 Mr. Beck and with Maria Armijo, all the people lined  
2 up over here? Do you remember that?

3 A. Yes.

4 Q. And you were going to be forthcoming with  
5 them, weren't you; correct?

6 A. Yes.

7 Q. Because you'd been lying to the FBI  
8 before?

9 A. No.

10 Q. You never did? Are you sure you want to  
11 say that, right there on the witness stand?

12 A. When I first fell, yes, I did.

13 Q. You lied, didn't you? One time, two  
14 times, three times, up to four times; right?

15 A. No.

16 Q. Three?

17 A. No.

18 Q. Are you sure you want to answer that  
19 question? You're under oath. You can go to prison  
20 if you lie. Remember the interview that you  
21 conducted with the FBI agents?

22 A. Okay.

23 Q. It was tape-recorded. You lied to them,  
24 didn't you?

25 A. Yes.

1 Q. So when you went to this interview in  
2 October, you wanted to make sure that you were  
3 telling the truth; right?

4 A. Yes.

5 Q. "I'm coming clean, I'm taking a shower in  
6 justice"; right?

7 A. Yes.

8 Q. So on October 20, 2016, did you tell all  
9 these people lined up over here that you did not  
10 know why Rodriguez wanted to confront Gomez?

11 A. Yes.

12 Q. Was that true?

13 A. Yes.

14 Q. You just told the jury that before you  
15 even left, she had been talking about the SNM;  
16 right? Isn't that what you said; right?

17 A. Yes.

18 Q. What's the truth? What you told the FBI  
19 on October 20, 2016, with these people present, or  
20 what you claim to be saying occurred here in the  
21 courtroom?

22 A. It was talked about twice.

23 Q. It was talked about twice?

24 A. Yes.

25 Q. And did you tell them about talking about

1 it twice back in October of 2016?

2 A. Yes.

3 MR. SINDEL: May I approach, Your Honor?

4 THE COURT: You may.

5 BY MR. SINDEL:

6 Q. October 20, 2016; right?

7 A. Yes.

8 Q. This is an interview. Jose Gomez assault;  
9 right?

10 A. Yes.

11 Q. And this is an interview with you, isn't  
12 it?

13 A. Yes.

14 Q. And it starts off talking about how you  
15 know Brandy and how you met her at the treatment  
16 facility; and you were still using when you went to  
17 Agave, weren't you?

18 A. No.

19 Q. I thought you said she wasn't but you  
20 were. Am I wrong about that?

21 A. I was on the methadone.

22 Q. Okay. You're on the methadone now? You  
23 weren't using?

24 A. Yes, I was on the methadone, not using.

25 Q. And does it say in there that you did not



1 know why Rodriguez wanted to confront Gomez? It's  
2 only about 11 words. Are you done reading?

3 A. Yes.

4 Q. Does it say that?

5 A. Yes.

6 Q. Does it say in that paragraph or anywhere  
7 else that this was done on behalf of the SNM, the  
8 whole Jose Gomez assault?

9 A. No.

10 Q. But you told this jury that it was  
11 mentioned, and I think you said at least twice;  
12 right?

13 A. Yes.

14 Q. You didn't say it then, did you?

15 A. No.

16 Q. Did you tell them here, before you walked  
17 into this courtroom and raised your right hand, that  
18 "You know what? I didn't tell the truth back then."  
19 Did you say that to them?

20 A. No.

21 Q. Did you tell them when they prepped you  
22 and prepared and debriefed you for your testimony  
23 here, "Back in October I didn't tell the truth about  
24 it"?

25 A. Yes.

1 Q. Did you tell them that?

2 A. Yes.

3 Q. Okay. And when was it that you told them  
4 that?

5 A. I don't recall the date.

6 Q. Well, can you give me a month? A year?

7 A. Yes.

8 Q. A decade?

9 A. No, not a decade. A year.

10 Q. Give me a year when you told them. It's  
11 got to be sometime between 2016 and 2018. There's  
12 only two; right?

13 A. Yes.

14 Q. And did they tell you that they were  
15 obligated --

16 THE COURT: When you talk, pull that  
17 microphone a little closer to you so that we hear  
18 you, Mr. Rivera.

19 Q. When you told them in 2017, "Look, I lied  
20 about this when I said that I didn't know it was  
21 connected with the SNM," did they tell that you they  
22 had a legal obligation to make sure that the defense  
23 knew about that lie?

24 A. Yes.

25 Q. They told you that they would come forward

1 and say, "We need you to know that back in October  
2 of 2016 Mr. Rodriguez -- or Mr. Rivera told a lie  
3 about the SNM being involved." They told you that?

4 A. No.

5 Q. Did they tell you that they had come clean  
6 with us about changes that you made in your  
7 statement?

8 A. No.

9 Q. So you had no idea? Why did you just say  
10 you did know that? You don't have to make things up  
11 here. Just say it like it happened. I can't hear  
12 you.

13 A. The answer was no.

14 Q. What?

15 A. No.

16 Q. Part of this, the same report -- let me  
17 just make sure you know. Do you see up here on the  
18 corner on the left side it says "302"? You know  
19 what a 302 is, don't you?

20 A. No.

21 Q. Well, when you were looking on the tablet  
22 before you decided to go to these porn sites, there  
23 were 302s on that, weren't there?

24 A. I never reviewed it.

25 Q. Okay. But you would see reports similar

1 to this; right?

2 A. Yes.

3 Q. And reports about you; right?

4 A. Yes.

5 Q. And so that you could take a look on this  
6 magic tablet, when you weren't looking at porn, and  
7 you could say, "I saw this 2016 report"; right?

8 A. No.

9 Q. Well, when was it they took the tablet  
10 from you?

11 A. 2017.

12 Q. Okay. And so was this report prepared  
13 before 2017?

14 A. Yes.

15 Q. Did you ever say, "Look, I saw this report  
16 on the tablet; it's wrong"?

17 A. No.

18 Q. Are you aware that because you had lied to  
19 the FBI in the past, they might not reward you for  
20 coming in here to testify?

21 A. No.

22 Q. Did that ever concern you, that maybe if  
23 you had lied to them in the past, it might affect  
24 the judge's decision about how long you were going  
25 to go to prison?

1 A. No.

2 Q. Never even concerned you; right?

3 A. No.

4 Q. Because they were going to cover you;  
5 right?

6 A. No.

7 Q. They were going to file that 5K; right?  
8 Right?

9 A. No.

10 Q. They weren't? So if you say now, "I lied  
11 at this time," are you concerned you might lose that  
12 reward, your 30 pieces of silver?

13 A. No.

14 Q. There in that same 302, there is an entire  
15 section devoted to the Sindicato de Nuevo Mexico;  
16 right? The SNM?

17 A. Yes.

18 Q. Is there anything in that section -- and  
19 you can read it if you want -- about the fact that  
20 the attack on Mr. Gomez was inspired or related to  
21 the SNM?

22 A. No.

23 MR. SINDEL: May I approach, Your Honor?

24 THE COURT: You may.

25

1 BY MR. SINDEL:

2 Q. Do you see here on the front of this  
3 document it says "Paul Rivera statement"; right?

4 A. Yes.

5 Q. That's you; right?

6 A. Yes.

7 Q. And here is -- and there are some titles  
8 here. Special Agent Neale. Do you remember being  
9 interviewed by Special Agent Tom Neale?

10 A. Yes.

11 Q. Do you remember being interviewed also at  
12 the same time by Agent Joe Sainato?

13 A. Yes.

14 Q. And do you remember and also present was  
15 Sergeant Nate?

16 A. Yes.

17 Q. Oh. And it's May 8; right?

18 A. Yes.

19 Q. It says that right there. And that was  
20 2016, wasn't it?

21 A. Yes.

22 Q. About five months before you gave that  
23 statement, your 302 that didn't mention the SNM;  
24 right?

25 A. Yes.

1 (Mr. Solis entered the courtroom.)

2 Q. And at the conclusion of that interview,  
3 that's when they asked you to write out a statement?

4 A. Yes.

5 Q. "Tell us everything that happened"; right?

6 A. Yes.

7 Q. "Make it as clear as you can and include  
8 all the facts"; right?

9 A. Yes.

10 Q. Now, this interview -- it went on for 116  
11 pages; correct?

12 A. Yes.

13 Q. Do you know if at any time you mentioned  
14 that the attack on Mr. Gomez was inspired by the  
15 SNM?

16 A. No.

17 Q. Not once; right?

18 A. No.

19 Q. So thus far, at least as I get it right,  
20 the first time you said that is here; is that right?

21 A. No.

22 Q. Can you point me to any document of all  
23 the different interviews that you've given that says  
24 that this attack was related to the SNM?

25 A. No.

1 Q. That in front of you right now is dated  
2 May 8, 2016; right?

3 A. Yes.

4 Q. And you recognize the handwriting?

5 A. Yes.

6 Q. Whose handwriting is that?

7 A. It's mine.

8 Q. And there is an indication in there like  
9 you said that Brandy said something about  
10 "testifying against my jefe"; right?

11 A. Yes.

12 Q. Is there in your written statement that  
13 you made at the conclusion of a several-hour  
14 interview with the FBI on May 8, 2016, anything  
15 about SNM?

16 A. No.

17 Q. The hit or the attack or whatever you want  
18 to call it was inspired by the SNM?

19 A. No.

20 Q. I'm going to ask you again. Can you give  
21 me or this jury a date when you decided to change  
22 everything you had said in the past?

23 A. No.

24 Q. You had talked about a jefe; right?

25 A. Yes.



1 Q. Do you remember telling the agents on May  
2 8, 2016, that in Belen, New Mexico, everybody is a  
3 jefe?

4 A. No.

5 Q. This is that same interview, May 8, 2016.  
6 Do you indicate, Mr. Rivera, that everybody is a  
7 jefe out there in Belen and Los Lunas?

8 A. No.

9 Q. Those aren't your words?

10 A. Not everybody. But Joe is.

11 Q. Are those your words?

12 A. No.

13 Q. So whoever then -- do you see here at page  
14 117 a certification or certificate --

15 A. Yes.

16 Q. -- from the reporter who took this down?

17 A. Yes.

18 Q. And it certifies that the above-captioned  
19 transcript was prepared by this reporter?

20 A. Yes.

21 Q. The recording was of good quality;  
22 correct?

23 A. Yes.

24 Q. And that the foregoing pages are a true  
25 and correct transcription of the recorded

1 proceedings. Do you see that?

2 A. Yes.

3 Q. But apparently she's lying and you're not?

4 THE COURT: Well, let's not ask him who is  
5 lying.

6 MR. SINDEL: I'm sorry.

7 THE COURT: You can ask if it's not what  
8 he said, but --

9 BY MR. SINDEL:

10 Q. Apparently she's wrong and you're right?

11 A. Yes.

12 Q. Do you see here on page 5 where it says,  
13 "Were you ever part of SNM?"

14 A. Yes.

15 Q. Did you say these words? "At one time I  
16 was. I was brought in. That was in 1990"?

17 A. Yes.

18 Q. She got those words right; right?

19 A. Yes.

20 Q. You're only saying she's wrong about the  
21 jefe. Apparently she put that in when you never  
22 said it.

23 A. Yes.

24 Q. Do you remember that particular interview  
25 describing the truck as a blue truck?

1 A. No.

2 MR. SINDEL: May I approach?

3 THE COURT: You may.

4 BY MR. SINDEL:

5 Q. Can you read that to yourself, page 45?

6 Does it call it a blue truck?

7 A. Yes.

8 Q. Is that what you said at that time, or did  
9 she get that wrong?

10 A. Yes.

11 Q. She got it wrong? Just two words. "Blue  
12 truck."

13 A. I said yes.

14 Q. She got it wrong. Because the next page,  
15 after she got it wrong, you had said it was a green  
16 truck; right?

17 A. Yes.

18 Q. Just like you said here today under oath?

19 A. Green truck.

20 Q. So then why is it that the FBI agent  
21 corrects you and says, "Was it a green truck," if  
22 that's what you said and she got it wrong?

23 A. Yes.

24 Q. It says there, "Was it a green truck?"

25 Right?

1 A. Yes.

2 Q. And so we're clear, you were driving the  
3 truck; correct?

4 A. Yes.

5 Q. Was it a green truck?

6 A. Yes.

7 Q. So did you, in fact, initially say it was  
8 a blue truck? Apparently so; correct?

9 A. Yes.

10 Q. She got it right then.

11 You told about a time when the SNM had  
12 basically attacked you; right?

13 A. Yes.

14 Q. With the golf club or some kind of thing,  
15 caused some serious injury to your head?

16 A. Yes.

17 Q. And was it at that point in time when you  
18 said, you know, "I'm renouncing this, I've had  
19 enough of this, this is bull"; right?

20 A. Yes.

21 Q. So you weren't in a position to want to do  
22 anything on behalf of the SNM after that attack,  
23 were you? You renounced them.

24 A. Yes.

25 Q. Do you remember telling the FBI agents

1 that questioned you in May of 2016 that Brandy and  
2 Shauna were bumping heads over their relationship  
3 with Mr. Joe Gallegos?

4 A. Yes.

5 Q. And that there was a certain tension  
6 between the two of them --

7 A. Yes.

8 Q. -- surrounding that relationship?

9 A. Yes.

10 Q. And although you have said -- and I don't  
11 challenge it -- that you and Brandy were not  
12 intimate, I think you said you were very close  
13 friends; right?

14 A. Yes.

15 Q. She was keeping that under wraps, wasn't  
16 she?

17 A. Yes.

18 Q. She was concerned that that might cause  
19 people jealousy or suspicion?

20 A. Yes.

21 Q. One of the benefits that you're hoping to  
22 receive is being placed in a particular institution  
23 within the federal system; right?

24 A. Yes.

25 Q. You're hoping -- because they've made it

1 clear to you that you might be assigned to a  
2 particular institution under the program that's  
3 called the WITSEC program; right?

4 A. Yes.

5 Q. And you know, at least from what you've  
6 been told, that's a pretty good deal, isn't it?

7 A. Yes.

8 Q. Do you remember the agents that  
9 interviewed you in May of 2016 telling you it was  
10 like a resort?

11 A. Yes.

12 Q. It was the cushiest place you could go  
13 within the federal system; right?

14 A. Yes.

15 Q. And they would even help you remove your  
16 tattoos.

17 A. Yes.

18 Q. And they told you that they could -- that  
19 they, in fact, had worked with murderers in the past  
20 and gotten them jobs on the street.

21 A. Yes.

22 Q. Got them a chauffeur's license so they  
23 could chauffeur people around; right?

24 A. No.

25 Q. Didn't they say they got them a CDL? Do

1 you know what a CDL is?

2 A. Yes.

3 Q. Is a CDL a chauffeur's driver's license?

4 A. To drive trucks?

5 Q. Or a chauffeur; right? Correct?

6 A. Yes.

7 Q. And they told you they could do that for  
8 you?

9 A. Yes.

10 Q. And just like the agent said, "So if  
11 that's a route you're willing to go, dude, federal  
12 WITSEC is nice"; right?

13 A. Yes.

14 Q. "It's a fucking resort"; right?

15 A. Yes.

16 Q. And that's what you want, isn't it?

17 A. Yes.

18 MR. SINDEL: That's all I have.

19 THE COURT: Thank you, Mr. Sindel.

20 Any other defendant. Mr. Roberts?

21 MR. ROBERTS: Just a few questions, Judge.

22 THE COURT: Mr. Roberts.

23 CROSS-EXAMINATION

24 BY MR. ROBERTS:

25 Q. You were asked earlier about a statement

1 you made also in May 2016; is that right?

2 A. Yes.

3 Q. And at that time you were asked on  
4 numerous occasions during that interview -- and you  
5 realized that interview was recorded; is that right?

6 A. Yes.

7 Q. And at that time you wanted to tell the  
8 truth; is that right?

9 A. Yes.

10 Q. Because you wanted to make an impression  
11 on the officers that you were speaking with; is that  
12 right?

13 A. Yes.

14 Q. You didn't want to tell them anything that  
15 wasn't true; right?

16 A. Yes.

17 Q. And at that time you were asked numerous  
18 times whether or not Andrew Gallegos, Smiley, was an  
19 SNM member. And at that time you said you didn't  
20 know Smiley; right?

21 A. Yes.

22 Q. You actually never met Andrew Gallegos; is  
23 that right?

24 A. Yes.

25 Q. In fact, you'd never even heard of him



1 until when all you guys were rounded up by Agent  
2 Acee and put in Estancia; is that right?

3 A. Yes.

4 Q. So before that you knew nothing about him.

5 A. No.

6 Q. And the only -- so they asked you, let's  
7 see, on page 22, "How about his brother, Smiley?"

8 You said, "I don't know him. I never met  
9 him"; right?

10 A. Yes.

11 Q. And they asked you on page 58 the same  
12 question. "How about Smiley?" And you said, "Never  
13 met him"; right?

14 A. Yes.

15 Q. And in fact, not until we get to page 103,  
16 where they asked you again, after several more  
17 times, and at that point you said, "He's an SNM."

18 And they said, "You've heard that; right?"

19 And you said, "Yes, I've heard he is."

20 A. Yes.

21 Q. So that's what you've heard; right?

22 A. Yes.

23 Q. You don't have any independent fact that  
24 he's an SNM member; is that right?

25 A. Yes.

1 Q. So it's just hearsay that you have; right?

2 A. Yes.

3 Q. So that's what your testimony is in front  
4 of this jury, is hearsay as to his membership; is  
5 that right?

6 A. Yes.

7 MR. ROBERTS: No further questions.

8 THE COURT: Thank you, Mr. Roberts.

9 Mr. Blackburn, do you have  
10 cross-examination of Mr. Rivera?

11 MR. BLACKBURN: Thank you, Your Honor.

12 THE COURT: Mr. Blackburn.

13 CROSS-EXAMINATION

14 BY MR. BLACKBURN:

15 Q. Mr. Rivera, you testified that you entered  
16 the adult state prison system in about 1990;  
17 correct?

18 A. Yes.

19 Q. And you did that at the Main facility in  
20 Santa Fe; is that correct?

21 A. Yes.

22 Q. And that was the old penitentiary as we  
23 know it; is that correct?

24 A. Yes.

25 Q. And even though you entered that system in

1 1990, you had already been a member of the juvenile  
2 system for quite some time, had you not?

3 A. Yes.

4 Q. You had about three or four prior  
5 adjudications for -- as a juvenile starting when you  
6 were at the age of 15 and 16 and 17 for all sorts of  
7 felony --

8 MR. CASTELLANO: Your Honor, I'll object,  
9 pursuant to Rule 609. It's also outside the scope  
10 of the rule.

11 THE COURT: Well, follow 609. If they're  
12 not permissible felonies, then let's not mention  
13 them, or they have to qualify for 609.

14 BY MR. BLACKBURN:

15 Q. So you had been in the juvenile system  
16 since you were at the age of, like, 14; isn't that  
17 correct?

18 A. Yes.

19 Q. And you had been doing drugs since the age  
20 of 12, had you not?

21 A. Yes.

22 Q. And you have been addicted to something,  
23 no matter whether it was alcohol, marijuana,  
24 Suboxone, heroine, methamphetamine, since basically  
25 your entire adult life; isn't that correct?

1 A. Yes.

2 Q. And when you first entered the  
3 penitentiary, in 1999, you said that you became a  
4 member of the SNM; isn't that correct?

5 A. No.

6 Q. You did not? When did you become a member  
7 of SNM?

8 A. 1990.

9 Q. I thought that's what I said. I'm sorry.  
10 I'm mistaken. I thought I asked you in 1990 that  
11 you became a member of SNM?

12 A. Yes.

13 Q. And the person that brought you in at the  
14 time, one of the people that brought you in, you  
15 said earlier was Gerald Archuleta; right?

16 A. Yes.

17 Q. Styx; right?

18 A. Yes.

19 Q. And another person that did that was a guy  
20 by the name of Michael Zamora?

21 A. Yes.

22 Q. And his name was Oso; right?

23 A. Yes.

24 Q. And that's what you are. Oso; right?

25 A. Yes.

1 Q. And another person that brought you in,  
2 was it Vincente Ramirez? Is that who it was?

3 A. Vincente Lucero.

4 Q. One of the main people that brought you in  
5 was a guy named Robert Martinez, Baby Rob; isn't  
6 that true?

7 A. Yes.

8 Q. And Baby Rob was one of the ones that you  
9 basically hung with initially when you were SNM;  
10 wasn't that true?

11 A. Yes.

12 Q. And you were his go-fer, were you not?

13 A. Yes.

14 Q. You washed his clothes, you did his  
15 laundry?

16 A. No.

17 Q. You didn't do any of that stuff? No? But  
18 at the same time, when you entered the prison in  
19 1990, you were a member of Los Carnales, were you  
20 not?

21 A. No.

22 Q. You had been a member of Los Carnales?

23 A. No.

24 Q. You had never been a member of Los  
25 Carnales?

1 A. No.

2 Q. The reason why you were stabbed in 2004  
3 was because you had been a member of Los Carnales,  
4 and now you were hanging with the SNM. Isn't that  
5 true?

6 A. No.

7 Q. You had a tattoo on your leg from Los  
8 Carnales; isn't that true?

9 A. No.

10 Q. You hid that from everybody. Isn't that  
11 true?

12 A. No.

13 Q. Well, did Los Carnales -- were they the  
14 ones that stabbed you in 2004?

15 A. No.

16 Q. Did you not tell the Government that the  
17 people that stabbed you were Los Carnales?

18 A. In 1995, yes.

19 Q. Okay. So you were a member of -- well,  
20 you were a member at one point in time as a juvenile  
21 and when you first entered the system of Los  
22 Carnales, were you not?

23 A. No.

24 Q. You knew that Los Carnales was a rival  
25 gang member to SNM, did you not?

1 A. Yes.

2 Q. Okay. Now are you telling us at that  
3 point in time that Los Carnales was not the one who  
4 stabbed you?

5 A. They were.

6 Q. They stabbed you; right?

7 A. Yes.

8 Q. They stabbed you because you were a  
9 traitor.

10 A. No.

11 Q. Why did they stab you?

12 A. Politics.

13 Q. Politics. Politics, because they just  
14 decided, "Hey, there is Oso, walking down the street  
15 there in the penitentiary, in Main, so we're going  
16 to take him out"?

17 A. No.

18 Q. You were allegedly the nonviolent guy;  
19 right?

20 A. Yes.

21 Q. You didn't do anything for SNM, did you?

22 A. No.

23 Q. Except do their drugs; right?

24 A. Yes.

25 Q. You were high from the day you got there

1 until probably today; isn't that true?

2 A. Yes.

3 Q. And you -- at some point in time, you had  
4 a confrontation with Baby Rob, did you not?

5 A. Yes.

6 Q. And Baby Rob put the hit on you, did he  
7 not?

8 A. Yes.

9 Q. And he put the hit on you because when you  
10 left prison, he wanted you to give him some type of  
11 drugs, and you didn't do that, did you?

12 A. Yes.

13 Q. Because you hired some idiot out there who  
14 wouldn't give you any money at all and wouldn't  
15 provide you with any drugs; right?

16 A. No.

17 Q. And you tried to blame that on him, did  
18 you not?

19 A. No.

20 Q. And the reason why -- you got hit up in  
21 Espanola, New Mexico; right?

22 A. Yes.

23 Q. And you said that that's when you got hit  
24 in the head?

25 A. Yes.



1 Q. And after that, you renounced being an SNM  
2 member; is that correct?

3 A. Before that.

4 Q. Okay. Before that. So you were already  
5 out on the streets before you renounced; right?

6 A. Yes.

7 Q. All right. And that was in 2007?

8 A. Yes.

9 Q. And now you -- but you kept coming back  
10 and forth to prison, did you not?

11 A. Yes.

12 Q. And you continued to say you were an SNM  
13 member, even though you renounced, did you not?

14 A. No.

15 Q. You hid that from everybody, did you not?

16 A. Yes.

17 Q. And eventually -- you go back and forth.  
18 You're in and out of prison most of your life, are  
19 you not?

20 A. Yes.

21 Q. How old are you?

22 A. 46.

23 Q. And you went in when you were 19; right?

24 A. Younger.

25 Q. You went in when you were 17?

1 A. Yes.

2 Q. All right. And what is the longest amount  
3 of time you have been out of prison?

4 A. Three or four years.

5 Q. Three or four years. All right. So when  
6 you were arrested -- you were arrested in March of  
7 2016, were you not, on this particular case?

8 A. Yes.

9 Q. And we've heard from other people you gave  
10 statements to the Government and to the FBI  
11 basically the day you were arrested, did you not?

12 A. Yes.

13 Q. All right. So the day you -- basically  
14 the day you were arrested, you started cooperating;  
15 is that correct?

16 A. Yes.

17 Q. But even though you started cooperating  
18 when you were arrested, you had been indicted, but  
19 they put you with all of these guys, did they not?

20 A. Yes.

21 Q. But you didn't tell them that, number one,  
22 you had already renounced, that you continued to  
23 hide from them; but you didn't tell anybody, "Oh,  
24 when I got picked up by the Government, I told them  
25 about you guys." You never said that, did you?

1 A. No.

2 Q. All right. But then you kept that facade  
3 until February of 2017, did you not?

4 A. Yes.

5 Q. Okay. And it was on February of 2017 when  
6 you entered your plea; is that correct?

7 A. Yes.

8 Q. All right. 580. Can you pull that up?

9 So as Mr. Castellano showed you earlier,  
10 the date that you appeared in front of the judge to  
11 admit to the crimes that you have discussed was on  
12 February 1st of 2017; is that correct?

13 A. Yes.

14 Q. Or at least that's the day it was filed.  
15 It may have been the day before, but it was around  
16 that time, was it not?

17 A. Yes.

18 Q. Thank you. And after that date, you were  
19 taken to a different facility, were you not?

20 A. Yes.

21 Q. And from that point in time on, you have  
22 been transferred to various facilities, have you  
23 not?

24 A. Yes.

25 Q. And every time you were transferred to a

1 facility, you were always with somebody else who was  
2 cooperating, were you not?

3 A. Yes.

4 Q. And you had your tablet the entire time,  
5 did you not?

6 A. No.

7 Q. Well, let me back up. You had your tablet  
8 until April of 2017, did you not?

9 A. Yes.

10 Q. And it was in April of 2017, so three or  
11 four months after you pled guilty, after you  
12 continued to work for the Government, that you lost  
13 your tablet; is that right?

14 A. Yes.

15 Q. And the reason why you lost your tablet  
16 was because you and your friends that were with you  
17 out there in Sandoval County -- Mr. Billy Cordova,  
18 Mr. Gerald Archuleta, Mr. Timothy Martinez, and  
19 Mr. Jerry Armenta -- figured out how to fix those  
20 tablets so that you could wipe them out, get rid of  
21 all your information, and get Wi-Fi on them,  
22 couldn't you?

23 A. Yes.

24 Q. Okay. And you used -- you guys took your  
25 tablets and were able to use -- because Sandoval

1 County Detention Center is located right across the  
2 street from the Walmart in Bernalillo, New Mexico;  
3 correct?

4 A. Yes.

5 Q. And you were able to use their free Wi-Fi,  
6 either theirs or McDonald's, to be able to use Wi-Fi  
7 on your tablets; right?

8 A. Yes.

9 Q. All of you guys; right?

10 A. Yes.

11 Q. And you had to fight for time as to who  
12 was going to be able to get to the right place so  
13 that you could use your tablet to get Wi-Fi;  
14 correct?

15 A. No.

16 Q. You didn't have to do that?

17 A. No.

18 Q. All of you got it?

19 A. Yes.

20 Q. All right. And you used your tablet at  
21 the time to be able to access tons of pornography;  
22 right?

23 A. Yes.

24 Q. And I mean, if we were to look at your  
25 tablet, it goes on for hours and hours and days, and

1 images of pornography on your tablet, does it not?

2 A. Yes.

3 Q. Every sort of type; right? Is there child  
4 pornography on there?

5 A. No.

6 Q. That's the one thing you didn't do; right?  
7 But you did every other thing known to God and  
8 mankind with that pornography, did you not?

9 A. Yes.

10 Q. And you also were able to access a  
11 Facebook account; right?

12 A. Yes.

13 Q. You set up your own Facebook.

14 A. Yes.

15 Q. So you could communicate with everybody in  
16 every state; right?

17 A. Yes.

18 Q. And tell them who you are?

19 A. Yes.

20 Q. And use a facade; right?

21 A. Yes.

22 Q. And create a new identity; right?

23 A. Yes.

24 Q. All right. And all this time that you  
25 were doing that, you were doing that while you were

1 high on either methamphetamine or Suboxone; right?

2 A. Yes.

3 Q. You guys were bringing that in. You and  
4 all of these guys, you and Billy Cordova and Gerald  
5 Archuleta and Tim Martinez and Jerry Armenta and  
6 Jerry Montoya were high as kites the entire time you  
7 were there; right?

8 A. Yes.

9 Q. Whether it was Suboxone or whether it was  
10 meth; right?

11 A. Yes.

12 Q. And when you even -- at the same time,  
13 you're getting \$1,650 from the Government to be able  
14 to do your drugs, view your porn, and listen to your  
15 music; right?

16 A. Yes.

17 Q. And when you weren't doing it in Sandoval  
18 County, they decided to move you to the North  
19 facility, did they not?

20 A. No.

21 Q. You went to the North facility first.

22 A. Yes.

23 Q. So you did it at the North facility;  
24 right? You didn't mess with your tablet until you  
25 got to Sandoval County; right?

1 A. Yes.

2 Q. But despite the fact that they took you to  
3 the North facility, supposedly they took you to the  
4 North facility and you were still doing drugs up  
5 there; right?

6 A. Yes.

7 Q. You guys were getting the drugs in; right?

8 A. Yes.

9 Q. You got them in from the guards; right?

10 A. No.

11 Q. You got them in from family members?

12 A. No.

13 Q. Who did you get them in from?

14 A. From other inmates.

15 Q. Other inmates that were with you in the  
16 North facility; right? So then you go to Sandoval  
17 County and you come up with this brilliant idea, or  
18 somebody does, as to how to be able to use your  
19 tablet to get Wi-Fi; right?

20 A. Yes.

21 Q. And you knew you guys were not supposed to  
22 do that, did you not?

23 A. Yes.

24 Q. You knew that this judge had ordered that  
25 there was not to be any Wi-Fi on those tablets;



1 right?

2 A. Yes.

3 Q. And if you screwed with those Wi-Fi's on  
4 those tablets, you were going to lose them; right?

5 A. Yes.

6 Q. That was crystal clear from this Court,  
7 was it not?

8 A. Yes.

9 Q. But you guys did that; right?

10 A. Yes.

11 Q. And all of you got Suboxone there; right?

12 A. Yes.

13 Q. And then when that didn't work, when they  
14 decided to move you, they moved you again to  
15 Lovington; right?

16 A. Yes.

17 Q. And you were in Lovington just about in,  
18 like, November of last year; right?

19 A. Yes.

20 Q. Lea County, New Mexico?

21 A. Yes.

22 Q. Right? And you were with Jerry Montoya;  
23 right?

24 A. Yes.

25 Q. And not only did you at that point in time

1 decide -- well, you didn't have your tablet anymore;  
2 right?

3 A. No.

4 Q. They took that away from you; right?

5 A. Yes.

6 Q. You lost your privileges?

7 A. Yes.

8 Q. And at that point in time the Government  
9 said, "Hey, we're done with you. You don't get no  
10 more money"; right?

11 A. Yes.

12 Q. You got booted off your contract; right?

13 A. No.

14 Q. You're still getting money?

15 A. No.

16 Q. When was the last time you got money from  
17 the Government?

18 A. It's been a while.

19 Q. But when you moved to -- when they took  
20 you to Lovington, when they took you to the Lea  
21 County facility at Lovington, New Mexico, you didn't  
22 stop there, did you?

23 A. No.

24 Q. No matter where you went, you continued to  
25 get it, did you not?

1 A. Yes.

2 Q. And you and Jerry Montoya devised a scheme  
3 to be able to get a guard to bring in to you  
4 cellphones, Suboxone, and methamphetamine; isn't  
5 that true.

6 A. No.

7 Q. You didn't?

8 A. No.

9 Q. You didn't have a cellphone?

10 A. No.

11 Q. Who did?

12 A. Jerry Montoya.

13 Q. Jerry Montoya did; right?

14 A. Yes.

15 Q. But you also -- you knew he had that  
16 cellphone, did you not?

17 A. No.

18 Q. You didn't ever know that? You knew he  
19 had the methamphetamine, because that's what you  
20 used with him; right?

21 A. Yes.

22 Q. Did you also get Suboxone?

23 A. Yes.

24 Q. Did you know who it was coming from? Did  
25 you know it was the guard he was dating?

1 A. No.

2 Q. You didn't know how it came in?

3 A. No.

4 Q. You just knew it was coming in from Jerry  
5 Montoya?

6 A. Yes.

7 MR. BLACKBURN: Thank you, Your Honor. I  
8 have nothing further.

9 THE COURT: Thank you, Mr. Blackburn.

10 Any other defendant have cross-examination  
11 of Mr. Rivera?

12 All right, Mr. Castellano, do you have  
13 redirect of Mr. Rivera?

14 MR. CASTELLANO: Yes, Your Honor.

15 THE COURT: Mr. Castellano.

16 REDIRECT EXAMINATION

17 BY MR. CASTELLANO:

18 Q. Mr. Rivera, when you broke the rules, were  
19 there consequences for that?

20 A. Yes.

21 Q. And in other words, did you ever get your  
22 tablet back?

23 A. No.

24 Q. And you said you haven't been paid money  
25 in quite some time?

1 A. Yes.

2 Q. And did you understand that if you broke  
3 rules, there would be consequences?

4 A. Yes.

5 Q. Now, do you really know the difference  
6 between 5K and 3553(e)?

7 A. No.

8 Q. Defense counsel asked you about that.

9 A. No.

10 Q. Do you understand that 3553(e) applies  
11 upon motion of the Government, the Court then has  
12 the authority to impose a sentence below a mandatory  
13 minimum sentence? Did you know that?

14 A. Yes.

15 Q. And do you understand that's upon motion  
16 of the Government, so that works together with 5K?

17 A. Yes.

18 Q. So would you call that a second bite of  
19 the apple, or is that something that happens at the  
20 same time, as far as you know? Do you know?

21 A. No.

22 Q. Okay. I think you mentioned earlier that  
23 you know Cunte?

24 A. Yes.

25 Q. Who is Cunte?

1 A. Frankie Gallegos.

2 Q. Does he have any kind of authority in the  
3 S?

4 A. No.

5 Q. Do you know where he's currently housed?

6 A. No.

7 Q. Do you remember telling myself and one of  
8 the agents about a conversation you had with Brandy  
9 Rodriguez and how she was upset about Joe's legal  
10 situation?

11 A. Yes.

12 Q. What was she upset about?

13 A. They wanted to give him the death penalty.

14 Q. At that point, was that something that he  
15 was potentially facing?

16 A. Yes.

17 Q. And was that from these charges --

18 A. Yes.

19 Q. -- against the SNM?

20 A. Yes.

21 Q. And is that documented in a report?

22 A. Yes.

23 Q. When you talked about WITSEC, do you think  
24 you need protection?

25 A. Yes.

1 Q. And when they talked about driving school,  
2 is that so you can support yourself with your own  
3 job?

4 A. Yes.

5 Q. And in March of this year, do you remember  
6 talking to the FBI and admitting to them that in May  
7 you had minimized your own involvement?

8 A. Yes.

9 Q. And do you recall that was documented in  
10 the report?

11 A. Yes.

12 Q. Did you also make a correction from a  
13 prior statement about what was used rather than a  
14 metal pipe?

15 A. Yes.

16 Q. What was that?

17 A. It was a leg from a wooden table.

18 Q. Is that what you told the jury today?

19 A. Yes.

20 Q. Do you remember what you wrote in your  
21 statement from May of 2016 about Brandy and Shauna  
22 discussing the hit coming from Joe Gallegos?

23 A. Yes.

24 Q. Do you remember your statement in May of  
25 2016, as far back as almost two years ago, when you

1 indicated that Brandy had kicked Tiny and said,  
2 "Don't testify against my jefe or I'm going to kill  
3 you"?

4 A. Yes.

5 MR. SINDEL: Just for the record, I'd like  
6 to make a repeated and continuing objection to this  
7 line of questioning as hearsay.

8 THE COURT: I think this is dealing with a  
9 prior consistent statement, so overruled. I can  
10 give the jury an instruction that you can't consider  
11 these prior statements for the truth of the matter.  
12 You can only consider them for determining whether  
13 Mr. Rivera is telling the truth today to the jury.  
14 So you can't consider them for the truth of the  
15 matter, but just for the purpose of determining  
16 whether he's telling the truth today.

17 Mr. Castellano.

18 MR. CASTELLANO: Thank you, Your Honor.

19 BY MR. CASTELLANO:

20 Q. Mr. Rivera, do you recall in your  
21 handwritten statement from May of 2016 that you  
22 indicated the truck was green, maybe?

23 A. Yes.

24 Q. In October of 2016, if you recall, do you  
25 remember that you told the FBI you learned the



1 attack on Gomez was motivated by Gomez's cooperation  
2 on a previous assault by Gallegos?

3 A. Yes.

4 MR. SINDEL: I'm just going to object to  
5 the continuing leading form of all these questions.  
6 He's basically reading what he wants the witness to  
7 say and testifying.

8 THE COURT: I'm not sure how else to deal  
9 with these, so I'll overrule.

10 BY MR. CASTELLANO:

11 Q. Okay. So the question was: Do you recall  
12 giving that information in October of 2016 that you  
13 learned the attack on Gomez was motivated by Gomez'  
14 cooperation with law enforcement on a previous  
15 assault by Gallegos?

16 A. Yes.

17 Q. Was that Joe Gallegos?

18 A. Yes.

19 Q. Do you recall also telling the FBI in  
20 October of 2016 that Gallegos had called Gutierrez  
21 numerous times from prison and encouraged her to  
22 have Gomez assaulted?

23 A. Yes.

24 MR. SINDEL: Your Honor, may that be a  
25 continuing --

1 THE COURT: It may. It may.

2 BY MR. CASTELLANO:

3 Q. Now, for the most part, when you were  
4 giving statements to the FBI, was that related to  
5 the SNM generally?

6 A. No.

7 Q. And did you also provide information  
8 primarily on the assault on Tiny because that's what  
9 you were charged with?

10 A. Yes.

11 Q. And more recently, in preparation for  
12 trial, were you then asked about people who were  
13 going to be at trial?

14 A. Yes.

15 Q. So do you recall, if I went down the list  
16 and asked you, who you knew to be SNM Gang members?

17 A. Yes.

18 Q. And when I talked to you, did I tell you  
19 how the case was going against Allen Patterson?

20 A. No.

21 Q. Did I discuss the trial with you at all or  
22 what any other witnesses said?

23 A. No.

24 Q. Now, when you were asked about whether  
25 Andrew Gallegos was SNM and you said you heard it

1 from other people, were those other people SNM  
2 members?

3 A. Yes.

4 Q. Was that when you were housed with them in  
5 Estancia?

6 A. Yes.

7 Q. And the same question about Allen  
8 Patterson. You said that you didn't know him from  
9 before.

10 A. Yes.

11 Q. And did you also learn the same  
12 information when you were housed with him and others  
13 at Estancia?

14 A. Yes.

15 MR. CASTELLANO: Pass the witness, Your  
16 Honor.

17 THE COURT: Thank you, Mr. Castellano.

18 MR. SINDEL: Your Honor, I think that I  
19 have some time left.

20 THE COURT: You've got about two minutes.

21 MR. SINDEL: You watch. Don't take it off  
22 for me trying to get there.

23 RECROSS-EXAMINATION

24 BY MR. SINDEL:

25 Q. We've been talking about this October 28th

1 statement. Did you indicate in that particular  
2 statement, October 28, 2016 (sic), that there was no  
3 discussion of any motivation to go there until after  
4 you returned from the assault?

5 A. Yes.

6 Q. So before the assault, there was nothing  
7 that you discussed concerning any motivation; right?

8 A. Yes.

9 Q. Okay. And then on March 27, 2018, which  
10 Mr. Castellano referred to, that was a situation in  
11 which you were asked to clarify anything that you  
12 had said that was wrong; correct?

13 A. Yes.

14 Q. And at that time you said, "Look, I didn't  
15 use a metal piece of a fence to beat him over the  
16 head. I used a wooden table leg"; right?

17 A. Yes.

18 Q. And you also said that initially you had  
19 attempted, I think your word was, to weasel out of  
20 criminal consequences; right?

21 A. Yes.

22 Q. You didn't say anything at that time about  
23 being wrong about the SNM; correct?

24 A. Yes.

25 Q. You didn't change that or ask them to

1 correct that, did you? I can show it to you, if you  
2 want me to.

3 A. Yes.

4 Q. You didn't do that, did you?

5 A. Yes.

6 Q. You did do that? I'm not sure --

7 A. I didn't understand the question.

8 Q. Okay. I'm saying that on October 27, 2018  
9 (sic) when they asked you to clarify anything in  
10 your initial statements that was wrong, you  
11 clarified the wooden leg and that you had attempted  
12 to weasel out of the criminal consequences; right?

13 A. Yes.

14 Q. But you didn't say anything in that  
15 clarification about the SNM, did you?

16 A. No.

17 MR. SINDEL: Thank you, Your Honor.

18 THE COURT: Thank you, Mr. Sindel.

19 Anything else, Mr. Castellano?

20 MR. CASTELLANO: Yes. Two questions, Your  
21 Honor.

22 THE COURT: Mr. Castellano.

23 REDIRECT EXAMINATION

24 BY MR. CASTELLANO:

25 Q. Mr. Rivera, when you went over to assault

1 Tiny, did you know that he was a witness against Joe  
2 Gallegos?

3 A. Yes.

4 Q. And by assaulting him, did you know that  
5 that could essentially help Joe Gallegos, because it  
6 would be one less witness against him?

7 A. Yes.

8 MR. CASTELLANO: I pass the witness, Your  
9 Honor.

10 THE COURT: Thank you, Mr. Castellano.  
11 All right, Mr. Rivera. You may step down.  
12 Is there any reason that Mr. Rivera cannot  
13 be excused from the proceedings? Mr. Castellano?

14 MR. CASTELLANO: No, Your Honor.

15 THE COURT: How about from the defendants?  
16 Mr. Sindel?

17 MR. SINDEL: No, Your Honor.

18 THE COURT: Not hearing any objection, you  
19 are excused from the proceedings. Thank you for  
20 your testimony.

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1  
2 UNITED STATES OF AMERICA

3 STATE OF NEW MEXICO  
4

5 C-E-R-T-I-F-I-C-A-T-E

6 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
7 Official Court Reporter for the State of New Mexico,  
8 do hereby certify that the foregoing pages  
9 constitute a true transcript of proceedings had  
10 before the said Court, held in the District of New  
11 Mexico, in the matter therein stated.

12 In testimony whereof, I have hereunto set my  
13 hand on this 16th day of May, 2018.  
14

15  
16 \_\_\_\_\_  
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